

**FILED**

September 24, 2024

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

BY: NM  
DEPUTY

WINDMILL WELLNESS RANCH,  
L.L.C. and USAA PLAN MEMBERS  
A.H., et. al.

Plaintiffs

v.

UNITED SERVICES AUTOMOBILE  
ASSOCIATION and USAA MEDICAL  
CARE PLAN

Defendants

CIVIL ACTION NO.  
SA-22-CV-1201-OLG

**ORDER**

The Court has considered the report and recommendation of United States Magistrate Judge Henry J. Bemporad, filed in the above-styled and numbered cause on July 31, 2024. Docket no. 42. Defendants filed objections. Docket no. 43.

The Court has conducted an independent review of those portions of the report to which objection is made. *See* 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b). After review, the Court finds that the Magistrate Judge's recommendation should be accepted.

It is therefore ORDERED that the Magistrate Judge's recommendation (docket no. 42) is ACCEPTED. For the reasons stated in the recommendation, Defendants' motion to dismiss claims in the third amended complaint (docket no. 38) is DENIED on Plan Members' Article III standing; DENIED WITHOUT PREJUDICE on Windmill's derivative standing; and GRANTED IN PART on the

federal and state Parity Act claims. The federal and state Parity Act claims are  
DISMISSED WITH PREJUDICE.

It is so ORDERED this 24 day of September, 2024.

A handwritten signature in blue ink, appearing to read 'Orlando L. Garcia', written over a horizontal line.

ORLANDO L. GARCIA  
UNITED STATES DISTRICT JUDGE